



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 11/22/05

AGENDA ITEM 7

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: An Ordinance Authorizing Execution of Amendment to Mount Eden Business and Sports Park Community Development Agreement

RECOMMENDATION:

It is recommended that the City Council adopt the attached Ordinance.

BACKGROUND:

The ordinance was introduced at the November 15, 2005, meeting of the City Council with the following vote:

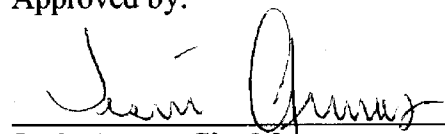
AYES:	Council Members:	Jimenez, Quirk, Ward, Henson
	Mayor:	Cooper
NOES:	Council Members:	Halliday, Dowling
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

The ordinance was published in the Hayward Daily Review on November 19, 2005. Adoption at this time is therefore appropriate.

Prepared by:


Angelina Reyes, City Clerk

Approved by:


Jesús Armas, City Manager

Draft Ordinance

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE BY THE CITY
COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE AUTHORIZING EXECUTION OF AMENDMENT TO MOUNT EDEN
BUSINESS AND SPORTS PARK COMMUNITY DEVELOPMENT AGREEMENT

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Findings. This ordinance authorizes the execution of an amendment to the existing Mount Eden Business and Sports Park Development Agreement ("Amendment to Development Agreement"), for the Eden Shores East residential project to be developed on an approximately 29.2 acre site located west of Marina Drive and on either side of Eden Shores Boulevard (the "Property"), which is a portion of the property commonly known as Oliver East. The findings and determinations contained in the following resolution are incorporated by this reference: Resolution No. 05-139, which approves General Plan Amendment PL 2004-0184, which amends the land use designations for the Property; Zone Change Application PL 2004-0189, reclassifying the Property from Light Manufacturing (LM) District and Business Park (BP) District to Planned Development (PD) District; Vesting Tentative Map 7489 (PL 2004-0190 and certain revisions to the South of 92 Specific Plan and the South of 92 Development Guidelines. The following additional findings also support the adoption of this ordinance authorizing the execution of the Amendment to Development Agreement.

- A. This ordinance is adopted pursuant to the enabling provisions of Article 9, Chapter 10 of the Hayward Municipal Code, the City's Development Agreement Ordinance, and the provisions of state law which authorize the City to enter into binding development agreements with persons having legal or equitable interests in real property for the development of their property, contained in Government Code sections 65864 through 65869.5.
- B. The proposed Amendment to Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the City's General Plan, the City's zoning ordinance, the South of 92 Specific Plan, and the South of 92 Development Guidelines, all as amended.
- C. The proposed development agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located in that the General Plan, as amended, allows for Residential - Medium Density at 8.7 to 17.4 dwelling units per net acre and the development is proposed to have a density of 10.7 dwelling units per net acre for the single family neighborhood and 14.0 dwelling units per net acre for the multi-family neighborhood.
- D. The proposed Development Agreement is in conformity with public convenience, general welfare, and good land use practice in that it will provide new housing opportunities and new public facilities, including new neighborhood parks and a previously-made contribution of \$7 million toward the development of Alden E. Oliver Sports Park, while minimizing impacts to the area.

Existing or proposed public facilities have sufficient capacity to accommodate the proposed

development in that "D" Street is proposed to be extended northeast from Marina Drive, thereby providing, along with the proposed two entrances off Marina drive and the single entrance off Eden Park Place, four means of ingress and egress for the development.

The public health, safety, and general welfare will be promoted and advanced by the proposed development in that mitigation measures will be required as a part of the development approvals to ensure that significant environmental impacts will be reduced to levels of insignificance, including those associated with dust and air quality, biological resources, cultural resources, hydrology, noise and recreation.

The orderly development of property or the preservation of the property values will be promoted and advanced by the proposed development in that high-quality single-family housing and multi-family housing will be constructed in an area that was planned and zoned for light manufacturing and business park land uses, resulting in less impacts to, and a development more compatible with, surrounding residences.

Section 2. Authorization to Execute Amendment to Development Agreement. Based on the findings set forth in this ordinance and in Resolution No. 05-139, as well as a review of the proposed Amendment to the Mount Eden Business and Sports Park Community Development Agreement Relating to Development of Eden Shores East, a Portion of Oliver East Property, submitted to the City Council at the November 15, 2005, meeting, the City Council hereby takes the following actions:

- A. The City Manager is authorized to execute the Amendment to Development Agreement, regarding the Eden Shores East project, substantially in the form of the proposed Amendment to Development Agreement presented to the City Council on November 15, 2005, together with such minor clarifying changes as may be necessary upon approval by the City Manager after consultation with the City Attorney.
- B. The City Manager is also authorized to take such further actions which he or she deems necessary and proper to carry out and or monitor performance of the terms of the executed Amendment to Development Agreement pursuant to applicable law and regulation. This authority includes but is not limited to execution of any further agreement which the City Manager deems necessary to implement the Amendment to Development Agreement ("Implementation Agreement").

Section 3. Effective Date. This ordinance shall become effective 30 days after adoption.

Section 4. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Introduced at a meeting of the Hayward City Council held November 15, 2005, the above-entitled ordinance was introduced by Council Member Henson.

This ordinance will be considered for adoption at the next meeting of the Hayward City Council, to be held on November 22, at 8:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this ordinance is available for examination by the public in the Office of the City Clerk.

DATED: November 19, 2005

Angelina Reyes, City Clerk
City of Hayward